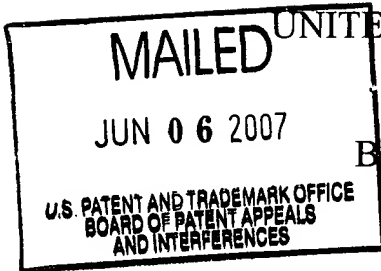


The opinion in support of the decision being entered today
is *not* binding precedent of the Board.



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY WILLIAM DAKE, JARAD BOHART NIEMI,
DONALD LEE HUGHES, JEFFREY JOHN KESTER,
DONALD BROWN COMPTON, JONATHAN JAVIER CALDERAS,
RICHARD GERARD SCHAFERMEYER,
and KEVIN PATRICK CHRISTMAS

Appeal 2007-2522
Application 09/853,391
Technology Center 1700

ON BRIEF

ORDER DISMISSING APPEAL

On January 22, 2004, Appellants filed an Appeal Brief. On
March 22, 2004, the Examiner entered an Examiner's Answer in response to
Appellants' Brief.

Background

On January 31, 2007, the Board of Patent Appeals and Interferences
(hereafter the "Board") mailed an Order Remanding to Examiner (hereafter

“Remand”) for further consideration of the rejections raised in the Examiner’s Answer mailed on March 22, 2004, and for clarification of the record. Furthermore, on page 4 of the Remand, the Board states that “[i]f the Examiner files a supplemental examiner’s answer, Appellants must respond in accordance with 37 C.F.R. § 41.39(b) by either requesting reopening of prosecution before the Examiner or by filing a reply brief to maintain the appeal” (emphasis added).

The Examiner’s Response to Board Remand

On February 27, 2007, the Examiner mails an Examiner’s Answer in response to the Board’s Remand. On pages 16-17 of the Answer, the Examiner states that Appellants must respond within **TWO MONTHS** from the date of the Answer by either (1) reopening prosecution by filing a reply under 37 C.F.R. § 1.111, or by (2) maintaining appeal by filing a reply brief as set forth in 37 C.F.R. § 41.41 in order to avoid *sua sponte* dismissal of said appeal.

A review of this Application reveals that the time period for Appellants to respond has hereby expired.

Accordingly, it is

ORDERED that this appeal is hereby dismissed for failure to respond to the Examiner’s Answer mailed on February 27, 2007.

Appeal 2007-2522
Application 09/853,391

The application is being returned to the Examiner for further action as
may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read 'Dale M. Shaw', is written over a horizontal line.

DALE M. SHAW
Chief Appeals Administrator
(571) 272-9797

DMS:clj

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